

Remarks:

Reconsideration of the application, as amended herein, is respectfully requested.

Claims 1 - 15 are presently pending in the application. As it is believed that the claims were patentable over the cited art in their previously presented form, the claims have not been amended to overcome the references.

On page 2 of the above-identified Office Action, the drawings were objected to as containing portions that were allegedly faded or illegible. Additionally, The Office Action indicated that Fig. 3 should be labeled as "Prior Art". Fig. 3 has been amended to include the label "Prior Art" and to change an erroneous item number "5" to its proper label "8". An annotated sheet, showing the changes made to Fig. 3, is additionally included herewith. It is believed that the replacement sheets, provided herewith, address the concerns raised on page 2 of the Office Action.

On page 3 of the Office Action, claims 1 - 3 and 7 - 13 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by European Patent Application Publication No. 0 624 508 to Koradi ("**KORADI**").

On page 4 of the Office Action, claims 4 - 6, 14 and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **KORADI** in view of U. S. Patent No. 5,620,156 to Berggren et al ("**BERGGREN**").

Applicant respectfully traverses the above rejections.

More particularly, Applicant's claims 1 and 15 recite, among other limitations:

c) the locking support is positioned on the side of the stock rail opposed to the switch blade **and is connected to a thrust bearing that is arranged on a fixed superstructure component** [emphasis added by Applicant]

The rejection of claim 1 on page 3 of the Office Action does not point out with particularity what portion of the **KORADI** reference is alleged to be the thrust bearing of Applicant's claim 1 or the fixed superstructure component upon which the thrust bearing is arranged. In fact, page 4 of the Office Action acknowledges the failure of **KORADI** to teach the above limitations, stating, among other things:

However, Koradi does not distinctly show the switch locking to be support [sic] on a superstructure or railroad tie assembly.

As such, Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. § 102(b) over **KORADI**, as the Office

Action acknowledges that the **KORADI** reference does not teach all limitations of that claim.

Rather, Applicant's claim 1, rejected in the Office Action over **KORADI**, and claim 15, rejected in the Office Action over **KORADI** in view of **BERGGREN**, are patentable over those references.

More particularly, the above-discussed limitation of Applicant's claims 1 and 15 is described in the specification of the instant application, for example, in paragraph [0037] of the published application, which states, in part:

As in FIG. 3, the locking support 102 is fastened on the side 108 facing away from the switch blade 106, by virtue of its tight grip on the foot 28 of the stock rail 14. At the same time, however, **a thrust bearing is created in the form of a bolt 110**, so that the locking support 102 can be tensioned by means of a clamping screw 112 and a hooked rod 114. **The bolt 110 is attached in a manner not shown here to a superstructure component, for instance on the inner side of a hollow-section cross-tie or on the underside of a slide bearing for the switch blade 106.** For the sake of a clearer main illustration, this figure shows the bolt 110 to be arranged below the foot 26 of the switch blade 106. [emphasis added by Applicant]

See also, for example, paragraphs [0040] and [0041] of the published application, which state, in part:

FIG. 2 is a diagram showing a side view of a second locking device 130. For the most part only the mountings for a locking support 132 and for a locking bearing 134 are shown for the sake of clarity. **The**

whole locking device 130 is integrated in a hollow-section cross-tie 136, open in the upward direction, having a U-shaped profile and outward facing flanges 138. Mounted on these flanges 138 and secured by means of bolted connections 139 is a slide chair 140 for a switch blade 142. A stock rail 144, modified in profile compared to the previously described stock rails 14, is also fastened on the flanges 138 by means of bolted connections 146.

A bolt 148 which projects sideways is provided on the inward facing sides of the slide chairs 140 in each case, and acts as a thrust bearing for the fastening of the locking support 132. Due to the way it is mounted, the locking support encloses the foot 150 of the stock rail 144 on its outer side 152 and is fastened by means of a clamping screw 154, which tensions a hooked rod 156 gripping the bolt 148. This fastening is provided on both the slide chairs 140 fastened on the flanges 138. [emphasis added by Applicant]

As such, Applicant's claims 1 and 15 require, among other limitations, a locking support (for example, 102, 132 of Figs. 1 and 2 of the instant application) connected to a thrust bearing (for example, 110, 148 of Figs. 1 and 2) that is arranged on a **fixed** superstructure component (for example, 136, 140 of Fig. 2 of the instant application).

The **KORADI** reference, depicted in Fig. 3 of the instant application, does not teach or suggest Applicant's particularly claimed locking support connected to a thrust bearing arranged on a fixed superstructure component, as required by Applicant's claims 1 and 15. Page 3 of the Office Action does not identify any such "thrust bearing" connected to a fixed superstructure component in the **KORADI** reference,

as required by Applicant's claims 1 and 15. Rather, as can be seen from Fig. 3 of the instant application, a bolt 30 of **KORADI** is only connected to the locking structure of **KORADI** (16 of Fig. 3 of the instant application), and is not connected to a fixed superstructure component, as required by Applicant's claims 1 and 15. This can be seen from paragraph [0034] of the instant application, which states, in part:

Similarly **the locking support 16** can also be tensioned against the foot 28 of the stock rail 14 **by means of a clamping screw 30 and a clamping hook 32**. [emphasis added by Applicant]

As such, as can be seen from the foregoing, nothing in the **KORADI** reference teaches or suggests, among other limitations of Applicant's claims, a locking support connected to a thrust bearing arranged on a fixed superstructure component, as required by Applicant's claims 1 and 15. Thus, Applicant's claims 1 and 15 is believed to be patentable over the teachings of the **KORADI** reference.

With regard to the above-discussed limitation of claim 15 (but not with regard to the same limitation in claim 1), page 4 of the Office Action states, in part:

However, Koradi does not distinctly show the switch locking to be support [sic] on a superstructure or railroad tie assembly. It is well known in the art that rails and switch assemblies are supported on crossties and ballast. Berggren et al discloses a railway switch assembly supported on a flanged

crosstie and a space in the crosstie for accommodating some of the switch components. It would have been obvious to one of ordinary skill in the art to have applied a railroad tie, like that of Berggren et al to a rail switch, like that of Koradi with the expected result of properly supporting the switch assembly on a railroad track at the proper height to insure proper operation of the switch and prevent malfunction and accidents.

Applicant respectfully disagrees with the foregoing. The **BERGGREN** reference, cited in the Office Action against claim 15, but not claim 1, does not cure the above discussed deficiencies of the **KORADI** reference. More particularly, contrary to the allegations made on page 4 of the Office Action, Applicant does not claim that that rail switch was applied to the railroad tie, in general, but rather, Applicant's claims 1 and 15 recite that a particular locking support is connected to a thrust bearing arranged on a fixed superstructure component. Neither **KORADI**, nor **BERGGREN**, teach or suggest, among other limitations of Applicant's claims, **a locking support connected to a thrust bearing arranged on a fixed superstructure component**, as required by Applicant's claims 1 and 15.

For the foregoing reasons, Applicant's claims 1 and 15 are believed to be patentable over **KORADI** and **BERGGREN**, whether taken alone or in combination.

Additionally, Applicant's independent claims 7 and 15 recite, among other limitations:

the locking bearing is arranged on a component that at least partially follows the displacement **and the displacement motion is transferred from the locking bearing to the switch blade by means of a displaceable push rod**. [emphasis added by Applicant]

As such, Applicant's claim 7 requires, among other limitations, that a displacement motion is transferred from a locking bearing to the switch blade **by means of a displaceable push rod**. The above-discussed limitation of Applicant's claim is discussed in the specification of the instant application, for example, in paragraph [0039] of the published application, which states, in part:

The locking catch 10 is supported, as mentioned, on the axle 4 in the locking bearing 104. In the upper part of the locking bearing 104 a push rod 120 is supported in a drill hole in such a way that it can move. **The push rod 120 is locked in each final position, enabling the front end 122 of the push rod 120 to press accurately against the switch blade 106.** When the switch is displaced the push rod 120 abuts against the switch blade 106 in the position shown in FIG. 1. By means of a coupling rod (not shown) for the two switch blades 106, the push rod 120 affects the other side of the locking device 100 opposite the split pin 124 in the axially symmetrical drive rod 126, so that the opposite switch blade abuts against the opposite stock rail and the switch blade 106 shown in FIG. 1 is then guided away from the stock rail 14. The previously mentioned coupling rod between the two switch blades 106, also known as a tie rod, can also be achieved by means of a continuous slide plate 118 which either itself has elements coupled to the switch blades 106 **or is part of an arrangement in which the push rods 120 are able not only to push a switch blade into a desired position but also to pull a switch**

blade into a desired position. [emphasis added by Applicant]

However, the rejection of claim 7 on page 3 of the Office Action does not identify which part of the **KORADI** reference is alleged to correspond to Applicant's particularly claimed "displaceable push rod" of claim 7. Rather, page 3 of the Office Action, referring to Fig. 3 of the instant application showing the invention of **KORADI**, stated, in part:

Koradi discloses a rail switch locking device for moving a switch blade into position with a stock rail. The switch lock is comprised of **a locking bearing 6** coupled to the switch blade and connected to a **locking catch 10** by means of an **axle 4**. A **locking rod 18** guides the locking catch against a support surface 12 of a locking support 16 on the stock rail, with the support being positioned on the stock rail opposite the switch blade. The support surface and locking rod move the switch blade to a locked position firmly against the stock rail and also to an unlocked position allowing the blade to move away from the stock rail and open the switch. **The locking bearing is further connected by a bolted connection to the foot of the switch blade with the switch blade** being shaped so as to allow the foot of the blade to rest on the foot of the stock rail when moved into position and locked together. [emphasis added by Applicant]

However, nothing in the foregoing allegations of the Office Action point to a locking bearing arranged on a component that at least partially follows a displacement **with the displacement motion being transferred from the locking bearing to the switch blade by means of a displaceable push rod**, as required by Applicant's claims 7 and 15. Rather, wherein the Office Action analogized the locking bearing to element 6 of

Fig. 3 and the locking rod to element 18 of Fig. 3, there is nothing in Fig. 3 of the instant application, or in the drawings of the actual **KORADI** reference, that uses a displaceable push rod to transfer a displacement motion from the locking bearing to the switch blade. Although the locking rod 18 of Fig. 3 is displaceable, it does not transfer displacement motion from the locking bearing 6 of Fig. 3 to the switch blade 8 of Fig. 3, as required by Applicant's claims 7 and 15.

In fact, **KORADI** clearly teaches away from Applicant's invention of claims 7 and 15. As shown in Fig. 3 of the instant application, and as referenced in the Office Action, the switch blade 8 of **KORADI** is rigidly attached to the locking bearing 6 by a bolt 24. See also, for example, paragraph [0034] of the instant application, describing **KORADI** and stating, in part:

The locking bearing 6 is connected by a bolted connection 24 to the foot 26 of the switch blade 8, said switch blade being designed in such a way that its foot 26 rests on the foot 28 of the stock rail 14 when the head 20 of the switch blade 8 is pressed against the head 22 of the stock rail 14. [emphasis added by Applicant]

As such, not only does **KORADI** fail to teach or suggest Applicant's particularly claimed displaceable push rod of claims 7 and 15, **KORADI** actually teaches a person of ordinary

skill in this art not to make the switch blade and locking bearing displaceable relative to one another, by rigidly fixing the two pieces together with a bolt (24 of Fig. 3).

For the foregoing reasons, among others, Applicant's claims 7 and 15 are also believed to be patentable over the **KORADI** reference. The **BERGGREN** reference does not cure the above-discussed deficiencies of the **KORADI** reference. As such, Applicant's claims 7 and 15 are additionally believed to be patentable over **KORADI** and **BERGGREN**, taken alone or in combination.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 1, 7 and 15. Claims 1, 7 and 15 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1 or 7.

In view of the foregoing, reconsideration and allowance of claims 1 - 15 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a

telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

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